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A JOINT MEMORIAL

REQUESTING A STUDY OF THE COMPETITIVE DISADVANTAGES REALIZED BY NEW MEXICO BUSINESSES AS A RESULT OF THE STATE'S GROSS RECEIPTS AND COMPENSATING TAX STRUCTURE.

WHEREAS, New Mexico businesses that sell goods to in-state consumers are often at a competitive disadvantage with respect to out-of-state sellers as a result of the gross receipts and compensating tax structure of New Mexico law; and

WHEREAS, an out-of-state seller subject to a low gross receipts or sales tax rate passes that low tax rate on to the buyer if the goods are sold in that state; and

WHEREAS, an in-state seller subject to the New Mexico state and local option gross receipts tax rates must pass those taxes on to the buyer; and

WHEREAS, the tax rates passed on to a buyer by an in-state seller are often higher than those passed on to buyers by out-of-state sellers; and

WHEREAS, the lower gross receipts or sales tax rates in other states often provide an incentive for buyers who reside in New Mexico to make purchases out-of-state; and

WHEREAS, although the imposition of the compensating tax for the use of tangible personal property acquired out-of-state is theoretically structured to eliminate some

1 competitive disadvantage to New Mexico businesses, the New
2 Mexico legislature enacted a law in 1995 to prohibit the
3 taxation and revenue department from enforcing the collection
4 of the compensating tax on purchases made by New Mexico
5 residents for nonbusiness purposes; and

6 WHEREAS, New Mexico businesses, especially those that
7 compete directly with out-of-state businesses for limited
8 markets, suffer reduced revenues as a result of their
9 competitive disadvantages;

10 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE
11 STATE OF NEW MEXICO that the taxation and revenue department
12 be requested to conduct a study of the competitive
13 disadvantages realized by New Mexico businesses as the result
14 of the state's gross receipts and compensating tax structure
15 and present a written report of its findings and
16 recommendations for elimination of the competitive
17 disadvantages caused by New Mexico's gross receipts and
18 compensating tax structure to the appropriate interim
19 committee of the legislature by December 31, 2005; and

20 BE IT FURTHER RESOLVED that duplicate copies of the
21 taxation and revenue department's report be filed with the
22 legislative council service library upon presentation of the
23 report to the appropriate interim committee of the
24 legislature; and

25 BE IT FURTHER RESOLVED that a copy of this memorial be

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transmitted to the secretary of taxation and revenue. _____